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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,020	05/15/2001	Mitsuhira Idaka	Q64489	8003

7590

09/23/2003

SUGHRUE MION ZINN MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

EXAMINER

CAPRON, AARON J

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 09/23/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,020

Applicant(s)

IDAKA, MITSUHIRA

Examiner

Aaron J. Capron

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is a response to the Amendment received on July 14, 2003, in which claims 1 and 7 were amended and claims 13-14 were added. Claims 1, 3-9 and 11-14 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4, 6-8 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker '041 et al. (U.S. Patent No. 6,110,041; hereafter "Walker '041"). This holding is maintained from prior action for cited claims, as amended, which is incorporated herein. Response to Applicant assertions is provided below and incorporated herein.

Walker '041 discloses a game machine that includes a player identifier (6:59-61), a data storage that stores personal information (Figure 2) of a plurality of players which have played the game, the data storage being operable to store a plurality of personal information items with respect to each player (4:64-5:16), and a game environment arranger that reads out the personal information of the player identified by the player identifier from the data storage and automatically sets up a game environment (abstract) based on the read out personal information wherein the player identifier identifies the player using image recognition techniques (6:59-61), wherein the personal information includes parameters of play of the game (Figure 7).

Referring to claim 3, Walker '041 discloses a game monitor that monitors status of the game played by the player to generate monitoring information (Figure 3) and a personal information generator that generates new personal information of the player based on the monitoring information and stores the new personal information in the data storage (abstract).

Referring to claim 4, Walker '041 discloses an information communicator that communicates the personal information stored in the data storage with another game machine connected to the game machine (Figure 1 and 3:28-41).

Referring to claim 6, Walker '041 discloses the personal information includes at least one of information regarding a skill level of the player, information regarding the number of tokens acquired in the game, and information regarding growth status in a raising game (Figure 5 4:48-5:16).

Claims 7-8 and 12 correspond in scope to a network system set forth for use of the gaming machine listed in the claims above and are encompassed by use as set forth in the rejection above. The gaming machine is in communication with a network server (Figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 9, 11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker '041 in view of Walker et al. (U.S. Patent No. 5,779,549; hereafter "Walker '549").

Referring to claim 5, Walker '041 discloses a level determiner that automatically determines a skill level of the player to generates skill level information (5:19-36), based on the monitoring information where the personal information generator incorporates the skill level information to the personal information and where the game environment arranger automatically reads out personal information of another player stored in the data storage, but does not disclose setting up another player as an opponent in a multi-player game based on the skill level information of the player. However, Walker '549 discloses an online tournament system, including slot machines (12:30-39), that monitors a player's skill in order to determine handicap or whether the player is eligible to play in future tournaments (7:16-38, esp 34-38) or to incorporate player preferences into pairings (11:50-60). One would be motivated to combine the two references in order to attract a plurality of players from different locations (1:56-60) and to generate interest amongst players with a cash pot for winning the tournament (8:14-22) or to incorporate player preferences into pairings to allow players to list preferred opponents or those players whom her would rather not play (11:50-60). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the tournament feature of Walker '549 into Walker '041 in order to attract a plurality of players from different locations and to generate interest amongst players with a cash pot for winning the tournament or to incorporate player preferences into pairings to allow players to list preferred opponents or those players whom her would rather not play (11:50-60).

Referring to claim 9, Walker '041 and Walker '549 disclose, teach or suggest the capability that a tournament can be played over the Internet (5:21-23, 12:30-35).

Claim 11 corresponds in scope to a network system set forth for use of the gaming machine listed in the claims above and is encompassed by use as set forth in the rejection above.

Referring to claims 13-14, Walker '041 in view of Walker '549 discloses a handicap restrictor that refuses to allow players that do not qualify for the tournament to play in the tournament even though that player may enter into the tournament (7:34-38 and 11:50-60).

Response to Arguments

Applicant's arguments filed July 14, 2003 have been fully considered but they are not persuasive.

Applicant argues that Walker '041 merely teaches a game system in which one personal information item is stored for each player. However, Walker '041 discloses a data storage storing a plurality of personal information items (4:64-5:16), wherein each item is a personal preference of each player and the plurality of personal information affect the slot machine configuration. Therefore, the claimed invention fails to preclude the gaming system of Walker '041.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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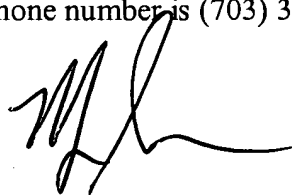
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc

A handwritten signature in black ink, appearing to be 'MS', with a long horizontal flourish extending to the right.

MARK SAGER
PRIMARY EXAMINER